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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,186	11/10/2003	Michael J.G. Gleissner	6378P002	4657

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EXAMINER	
SOTOMAYOR, JOHN	

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/705,186	GLEISSNER ET AL.	
	Examiner	Art Unit	
	John L Sotomayor	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *51-68 and 89* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *51-68 and 89* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In response to the amendment filed December 28, 2004, claims 51-68 and 89 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 51-54, 59-61,63-66 and 89 are rejected under 35 U.S.C. 102(a) as being anticipated by Falcon et al (US 6,632,094).

Regarding claims 51 and 89, as best understood from the disclosure of the invention Falcon et al anticipates the recited claim limitations as follows: Falcon et al discloses a system and method for language instruction including at least one of video or audio content (Col 3, lines 52-63), providing assistance to a user to facilitate language learning (Col 4, lines 2-9), inferring the extent of knowledge of a language of the user (Col 9, lines 29-39), and tracking the playback position of the playback for the user by recording playback position, position timing and ancillary data to allow the user to automatically adjust the playback assistance to the user (Col 12, lines 1-37).

Regarding claim 52, Falcon et al discloses a system and method for language instruction comprising delivering original content with an additional content via a same digital medium,

including a text database of the words present within the original content, and information about the words (Col 9, lines 42-67).

Regarding claim 53, Falcon et al discloses a system and method for language instruction comprising combining an additional content (Col 10, lines 52-61), a text database of the words present within the original content (Col 9, lines 42-59), and information about the words (Col 10, lines 62-67).

Regarding claim 54, Falcon et al discloses a system and method for language instruction comprising playing the original content associated with a plurality of adjacent words responsive to a user input (Col 10, lines 10-37 and fig 7).

Regarding claim 59, as best understood Falcon et al discloses a system and method for language instruction comprising automatically pausing the content during playback for a duration determined by a user's experience (Col 5, lines 37-61).

Regarding claim 60, as best understood Falcon et al discloses a system and method for language instruction comprising automatically offering an additional content during a pause based upon the user's knowledge (Col 9, lines 17-39).

Regarding claim 61, Falcon et al discloses a system and method for language instruction comprising prompting a user to indicate the level of assistance they desire (Col 11, lines 45-62).

Regarding claim 63, Falcon et al discloses a system and method for language instruction comprising providing additional content that includes an index of words spoken in the original content (Col 9, lines 54-67), providing a library of audible pronunciations for a plurality of words in the index and playing the pronunciations in response to a user input (Col 10, lines 38-61).

Regarding claim 64, Falcon et al discloses a system and method for language instruction comprising analyzing at least one of a user input, a context of the user input, a database of the original content, a database of an additional content, or a database of user information to identify information of interest and presenting the information of interest prior to playing the segment (Col 10, lines 10-38).

Regarding claim 65, Falcon et al discloses a system and method for language instruction comprising analyzing at least one of a user input, a context of the user input, a database of the original content, a database of an additional content, or a database of user information to identify information of interest and prompting a user input to cause modification of the playback (Col 9, lines 10-38).

Regarding claim 66, Falcon et al discloses a system and method for language instruction comprising providing a link to other content accessible across a distributed network (Col 12, lines 1-7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falcon et al in view of Sameth et al (5,882,202). As best understood, Falcon et al discloses a system and method for language instruction including at least one of video or audio content (Col 3, lines 52-63), providing assistance to a user to facilitate language learning (Col 4, lines 2-9), tracking the playback position of the playback for the user by recording playback position, position timing and ancillary data to allow the user to automatically adjust the playback assistance to the user (Col 12, lines 1-37). Falcon et al does not specifically disclose playing a sequence of adjacent words in which the speed of playback is adjusted responsive to user input. However, Sameth et

al discloses a method comprising playing a plurality of sequentially adjacent words wherein the speed of playback is adjusted responsive to a user input (Col 6, lines 15-22). Therefore, it would have been obvious to one of ordinary skill in the art to provide a system and method for language instruction including at least one of video or audio content, providing assistance to a user to facilitate language learning, tracking the playback position of the playback for the user by recording playback position, position timing and ancillary data to allow the user to automatically adjust the playback assistance to the user as disclosed by Falcon et al and including playing a plurality of sequentially adjacent words wherein the speed of playback is adjusted responsive to a user input as taught by Sameth et al in order to allow a user of the training system to adjust the system to learn at their own pace.

5. Claims 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falcon et al in view of Rtischev et al (US 6,302,695).

Regarding claims 67 and 68, Falcon et al discloses a system and method for language instruction comprising providing a link to other content accessible across a distributed network. Falcon et al does not specifically disclose that the content is subject to access based upon an assignment of rights (claim 67) or that rights are granted based upon payments received (claim 68). However, Rtischev et al teaches a language training system in which rights to content are reserved to an inventor or originator of said content (Col 1, lines 15-21) and that a user accesses content based upon logging into an account that requires a payment for maintenance of such an account. Creating copyrighted content and requiring payment to access said content is well within the capability of one of ordinary skill in the art for content providers. Thus, it would have been obvious to one of ordinary skill in the art to provide a system and method for language

instruction comprising providing a link to other content accessible across a distributed network as disclosed by Falcon et al and that the content is subject to access based upon an assignment of rights (claim 67) or that rights are granted based upon payments received as taught by Rtischev et al for the purposes of establishing a profit opportunity for content creators and promulgate the creation of further content in the future.

6. Claims 56-58 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falcon et al in view of Sameth et al in view of Kehoe (US 5,794,203).

Regarding claims 56-58 and 62, Falcon et al/Sameth et al discloses a method in which text information relating to an audio track is played back in synchronization with video tracks for language training in which a correlation of words spoken to specific points in the content is maintained in an index (Col 9 and 10). Falcon et al/Sameth et al does not specifically disclose adjusting the pitch or time-spacing, or maintaining natural speed of audible playback in relation to the speed of the playback. However, Kehoe teaches a language training system in which the pitch of the audible playback is adjusted relative to the speed of the playback (claims 56 and 62) the time-spacing of the playback (claim 57 and 62) or maintaining the natural speed and pitch of spoken words upon playback through the use of digital signal processing (claim 58 and 62) (Col 5, lines 22-50). Therefore, it would have been obvious to one of ordinary skill in the art to provide a method in which text information relating to an audio track is played back in synchronization with video tracks for language training as disclosed by Falcon et al/Sameth et al and adjusting the pitch or time-spacing, or maintaining natural speed of audible playback in relation to the speed of the playback as taught by Kehoe for the purposes of assisting a user to achieve fluency in the pronunciation of language elements.

Response to Arguments

Applicant's arguments filed December 28, 2004 have been fully considered but they are not persuasive. With regard to the argument presented regarding the use of the word "inferring" to discover the extent of knowledge of a language of the user, as shown in the above Office Action, the prior art does indeed determine, or infer, a level of language knowledge of the user of the system. In addition, Applicant's claims 51 and 89 do not present a claim limitation derived at "discerning" a knowledge level of a user. In this regard, Applicant's argument is moot.

Regarding Applicant's argument that the Examiner was unclear in the rejection as to where in the FALCON reference support was found for the rejection of claim limitations. The Examiner regrets that a typographical error directed Applicant to different section of the reference than the Examiner intended. The correction to the reference location has been effected in the above Office Action.

Regarding the argument related to the rejection to claim 55, the rejection has been updated. Please see the above Office Action.

For these reasons Applicant's arguments are not persuasive and the rejections are maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 571-272-4456. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jls
March 9, 2005

Chanda L. Harris
CHANDA L. HARRIS
PRIMARY EXAMINER